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**DATE:** February 27, 2002

**HOUSE OF REPRESENTATIVES**  
**COUNCIL FOR COMPETITIVE COMMERCE**  
**ANALYSIS**

**BILL #:** CS/HB 1841 (PCB IN 02-01)

**RELATING TO:** Insurance Agents

**SPONSOR(S):** Council for Competitive Commerce, Committee on Insurance, Rep. Waters & Others

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) INSURANCE YEAS 14 NAYS 0
  - (2) COUNCIL FOR COMPETITIVE COMMERCE YEAS 12 NAYS 0
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

Under the Gramm-Leach-Bliley Act enacted by Congress in November 1999, certain state regulatory authority over producer licensing will be pre-empted to the National Association of Registered Agents and Brokers, unless a majority of the states achieves uniformity or reciprocity by November 12, 2002.

According to the bill, the intent of the Legislature would be to bring Florida into compliance with the uniformity and reciprocity provisions of the Gramm-Leach-Bliley Act, while preserving certain "consumer protection" laws.

In addition to this statement of legislative intent, the bill would:

- Classify certain licensure requirements as "consumer protection" laws;
- Define certain additional terms;
- Require the Department to accept the Uniform Application developed by the National Association of Insurance Commissioners for nonresident agent licensing;
- Eliminate the "solicitor" license and allow licensees to convert to general lines agents;
- Extend to nonresident agent applicants the exemptions from the examination requirement enjoyed by resident agent applicants holding certain professional designations;
- Extend the express authority of the Department to enter into reciprocal agreements with other states waiving the examination requirement to nonresident general lines agent licensing;
- Permit the Department to issue a single temporary license covering multiple lines and extend the duration for certain lines;
- Grant the Department rulemaking authority to establish waiting periods and penalties for applicants for certain violations;
- Allow those becoming residents of Florida to transfer their licenses from other states; and
- Exempt persons adjusting certain crop claims from licensure as adjusters.

The bill also increases the value of a burial insurance policy that may be sold by a life insurance agent.

The bill would not have a fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

**The Gramm-Leach-Bliley Act**

Enacted by Congress in November 1999, the Gramm-Leach-Bliley Act<sup>1</sup> became law on November 12, 1999. Multistate insurance producer licensing reforms are contained in Subtitle C of the Gramm-Leach-Bliley Act, which defines "insurance producer" as any insurance agent, broker, or other person who "solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance."<sup>2</sup> Under the Gramm-Leach-Bliley Act, all states must surrender certain regulatory authority over producer licensing to the National Association of Registered Agents and Brokers (NARAB), unless a majority of the states achieves uniformity or reciprocity by November 12, 2002. The stated purpose of the NARAB is to "provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the rights of states . . . to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices."<sup>3</sup>

The Gramm-Leach-Bliley Act saves from "alteration or amendment," "any law . . . which purports to . . . establish consumer protections . . .," unless inconsistent with a specific uniformity or reciprocity requirement in the Gramm-Leach-Bliley Act.<sup>4</sup> Furthermore, the Gramm-Leach-Bliley Act describes the purpose of the NARAB as providing "uniform . . . producer sales qualification requirements and conditions . . .," and preserving "the right of states to . . . prescribe and enforce laws and regulations with regard to insurance-related consumer protection."<sup>5</sup>

Under the Gramm-Leach-Bliley Act, states would achieve the necessary uniformity if a majority:

- Establishes uniform standards relating to the integrity, personal qualifications, education, training, and experience of insurance producers;
- Establishes uniform continuing education requirements;

<sup>1</sup> Pub.L. 106-102, 113 Stat. 1422, 15 U.S.C.A. 6751, et seq.

<sup>2</sup> Pub.L. 106-102, s. 336(3).

<sup>3</sup> Pub.L. 106-102, s. 323.

<sup>4</sup> Pub.L. 106-102, s. 321(f).

<sup>5</sup> Pub.L. 106-102, s. 323.

- Establishes uniform ethics course requirements;
- And does not impose regulations upon nonresident licensed producers limiting their activities on the basis of their place of residence or business.

States would achieve reciprocity under the Gramm-Leach-Bliley Act if a majority:

- Permits producers licensed in their home state to obtain licenses in other states to sell insurance to the same extent permitted in their home state, if the producer's home state also awards licenses on a reciprocal basis, without requiring nonresidents to do anything more than:
  - Request licensure,
  - Submit a copy of the license application filed in the producer's home state,
  - Provide proof the producer is licensed in good standing in his or her home state,
  - And pay any required fees;
- Accepts satisfaction of the continuing education requirements in an insurance producer's home state as satisfying the nonresident state's continuing education requirements, if the home state also recognizes the continuing education requirements of the nonresident state; and
- Does not impose any requirement upon nonresident licensed producers limiting or conditioning their activities because of their place of residence or business.

The National Association of Insurance Commissioners (NAIC) has adopted the Producer Licensing Model Act (Model Act) designed for use by states choosing to implement the uniformity and reciprocity provisions of the Gramm-Leach-Bliley Act. Nothing in the Gramm-Leach-Bliley Act requires states to enact the Model Act or precludes states from satisfying the uniformity or reciprocity requirements by means other than enactment of the Model Act. However, the NAIC, together with state insurance regulators, will determine if a majority of the states satisfies the requirements for uniformity or reciprocity.

According to the NAIC, as of September 30, 2001, thirty-seven states, accounting for 60 percent of the insurance producer population, have enacted uniformity or reciprocity legislation in response to the Gramm-Leach-Bliley Act. Many of the most populous states have not enacted the Model Act or other uniformity or reciprocity legislation in response to the Gramm-Leach-Bliley Act. In addition to Florida, these include California, New York, Pennsylvania, Michigan and Ohio.

The NAIC has not yet determined the number qualifying as part of the majority of states necessary to prevent preemption by the NARAB.

### **Licensure of Insurance Representatives in Florida**

There are many different types of insurance representatives. These include agents, customer service representatives, service representatives, solicitors, brokers, adjusters, and others.

#### Agents

Insurance agents transact insurance on behalf of an insurer or insurers. Agents must be licensed by the Department to act as an agent for an insurer, and be appointed (i.e., given the authority by an insurance company to transact business on its behalf) by at least one insurer to act as the agent for that particular appointing insurer or insurers. Requirements vary by line and based upon resident or nonresident license type. "Resident agents" are agents domiciled and residing in the state of Florida. "Nonresident agents" may sell insurance only under the supervision of a licensed resident

agent. All insurance policies issued by a nonresident agent are required to be countersigned by a resident agent.

“General lines agents” are authorized under state law to transact any or all of the following lines of insurance: property, casualty, surety, health, and marine insurance. However, a general lines agent may sell health insurance without being separately licensed as a health agent only for those insurers also represented by that same agent as to property and casualty insurance. Otherwise, only licensed health agents may sell health insurance. “Limited lines agents” are individuals, or in some cases entities, licensed as agents to sell one or more of the following forms of insurance (each requiring a separate license): motor vehicle physical damage and mechanical breakdown; industrial fire or burglary; personal accident; baggage and motor vehicle excess liability; credit insurance; credit property; crop hail and multiple peril crop insurance; or in-transit and storage personal property. Neither general lines nor limited lines agents may sell life insurance. General lines agents also may transact limited lines of insurance other than personal accident and crop insurance products.

Certain agents are further identified in law by the specific type of insurance they sell. “Life agents” represent insurers as to life insurance and annuity contracts. They also can sell two limited lines of insurance: credit life or disability, and personal accident. Life agents are authorized to accept applications, but may not bind coverage. The insurance company must approve life insurance applications. “Health agents” are those licensed to represent health maintenance organizations or an insurance company as to health insurance only. They also can sell two limited lines of insurance: credit life or disability, and personal accident. “Title” agents are persons licensed to issue and countersign commitments or policies of title insurance.

#### Customer and service representatives

Other representatives involved in the insurance transaction are not licensed agents. These include “customer representatives” and “service representatives.” “Customer representatives” are appointed by general lines agents or agencies to assist them in insurance transactions. They work under the direct supervision of the appointing agent and may not leave the office to sell insurance. A “limited customer service representative” is one involved in only private passenger motor vehicle insurance. “Service representatives” are directly employed and appointed by insurers or managing general agents to assist in negotiating and effecting insurance when accompanied by a general lines agent. In practice, a service representative works in an insurance company’s main office or regional office, rather than in an insurance agency.

#### **Licensing Requirements**

Although requirements vary by line of authority, general requirements for agent licensure include being 18 years of age; submitting an application; paying required fees; satisfying pre-licensing examination requirements, when applicable; complying with requirements as to knowledge, experience, or instruction; and submitting fingerprints. Applicants for a resident agent license must be Florida residents. Applicants for a nonresident license must be licensed in good standing in their home state, but generally do not have to pass a pre-licensing examination because Florida has reciprocity agreements with all states to waive that requirement.

Each type of agent, for example, general lines agent, health agent and life agent have a set of qualifications specific to the particular lines of insurance transacted.

**Please see Section II. D., Section-by-Section Analysis, for additional relevant Present Situation.**

C. EFFECT OF PROPOSED CHANGES:

According to the bill, the intent of the Legislature would be to bring Florida into compliance with the uniformity and reciprocity provisions of the Gramm-Leach-Bliley Act, while preserving certain "consumer protection" laws. The bill would make a number of changes to the licensing of insurer representatives in Florida. These changes would include:

- Establishing legislative intent to achieve uniformity or reciprocity, while preserving applicable consumer protection laws.
- Creating a definitions section and adding definitions for "home state," "limited lines insurance," "line of authority," and "uniform application," and modifying the definition of "agent."
- Identifying certain license requirements as consumer protections.
- Requiring the Department to accept the Uniform Application for nonresident agent applicants.
- Combining sections in current law addressing temporary licensing and authorizing the Department to issue a single temporary license for multiple lines.
- Giving the Department the authority to promulgate rules establishing waiting periods for applicants to become eligible for licensure following denial, suspension, or revocation of a license and penalties for violations based on those grounds.
- Providing additional exemptions from the examination requirement for certain licensees.
- Allowing certain agents becoming residents of Florida to transfer their licenses from other states.
- Requiring agents to report to the Department certain final dispositions of administrative actions taken against them.
- Extending the time period allowed for licensees to notify the Department of a change of address or name, and imposing fines for failure to provide timely notification.
- Canceling all current solicitor licenses effective October 1, 2001, and allowing existing solicitor licensees to be licensed as general lines agents.
- Extending the express authority of the Department to enter into reciprocal agreements with other states waiving the examination requirement to nonresident general lines agent licensing.
- Extending to nonresident agent applicants exemptions from the examination requirement enjoyed by resident agent applicants holding certain professional designations.
- Exempting persons adjusting only multiple peril crop or crop hail claims from the Insurance Adjuster Law.

The bill also increases the value of a burial insurance policy that may be sold by a life insurance agent.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Provides legislative findings and intent. The Legislature finds that Subtitle C of the Gramm-Leach-Bliley Act requires states to achieve uniformity or reciprocity, but not at the expense of laws protecting insurance consumers; and that the Act expressly saves from alteration consumer protection laws not inconsistent with the Act. The Legislature expresses its intent to comply with the uniformity and reciprocity requirements of the Act, while preserving consumer protection laws not inconsistent with the Act.

**Section 2.** Conforms cross-references in s. 624.11, F.S., to changes proposed in the bill.

**Section 3.** Conforms cross-references in s. 624.509, F.S., to changes proposed in the bill.

**Section 4.** Creates s. 626.015, F.S., as a definitions section and transfers existing definitions from other sections into this section. Creates the following new definitions:

- “Home state” would be defined as the “District of Columbia and any state or territory of the United States in which an insurance agent maintains his or her principal place of residence and is licensed . . . .”
- “Limited lines insurance” would be defined as “those categories of business specified in ss. 626.321 and 635.011, F.S.”
- “Line of authority” would be defined as a “kind, line, or class of insurance” an agent is licensed to transact.
- “Uniform Application” would be defined as “the uniform application of the National Association of Insurance Commissioners for nonresident agent licensing.”

Additionally, the term “agent” would be amended to include an “insurance producer.” Customer representatives, limited customer representatives, and service representatives would be specifically excluded from the definition, and not considered an agent.

*Current Law:* Definitions used in Chapter 626, Florida Statutes, are spread throughout the chapter. Several terms such as “home state,” “line of authority,” and “uniform application” are not defined. The exclusion of “customer representative,” “limited customer representative,” and “service representative” from the definition of “agent” reflects current policy. These representatives are not licensed as “agents.”

**Section 5.** Creates s. 626.025, F.S., to classify certain laws applicable to agents as “consumer protection” laws. Laws identified as “consumer protection” laws include the following: continuing education requirements; fingerprinting requirements; credit and character report requirements; licensure qualifications; examination requirements; the licensure of certain insurance agents and agencies; certain prohibitions against nonresident agents having a place of business in the state, a pecuniary interest in an insurance business in the state, or a financial interest in an insurer in the state; the prohibition against employees of the U.S. Department of Veterans Affairs being licensed as life or health agents; the prohibition against life or health agents who are members of the armed service selling insurance products to their subordinates; countersignature requirements; the designation of primary agents; the Code of Ethics for life agents; and the prohibition against life agents as the beneficiary of a life policy sold to an individual who is not a family member. The Insurance Commissioner would be given the authority to designate any other requirement, restriction or prohibition as a consumer protection as long as it is not inconsistent with Subtitle C of the Gramm-Leach-Bliley Act.

*Current Law:* Florida Statutes do not now formally label these requirements as “consumer protection” laws.

**Section 6.** Amends s. 626.032, F.S., deleting the definition of “administrative agent,” which is transferred to the newly created definitions section, s. 626.015, F.S.

**Section 7.** Amends s. 626.094, F.S., deleting the reference to “solicitor” to reflect the repeal of this license type in section 71 of the bill.

**Section 8.** Conforms cross-references in s. 626.112, F.S., to reflect changes in other sections of the bill.

**Section 9.** Amends s. 626.171, F.S., to authorize the Department to accept the Uniform Application for nonresident agent applicants.

*Current Law:* The NAIC has approved a Uniform Application for use by the states. The Department uses its own nonresident agent license application.

**Section 10.** Creates s. 626.175, F.S., relating to temporary licenses. Temporary licenses issued to general lines agents due to death or disability of an agent; industrial fire or burglary agents, pending examination; life agents representing industrial or ordinary-combination class insurers, pending examination; and life agents, due to death of agent, would be combined into one section. The length of temporary licenses issued for a general lines agent, due to the death or disability of an agent, and for a life agent, due to in the death of the agent, would be extended from four months to six months. The Department would be granted the authority to issue a single temporary license covering multiple lines.

*Current Law:* The Department issues temporary licenses to general lines agents due to death or disability of an agent (s. 626.739, F.S.); industrial fire or burglary agents, pending examination (s. 626.740, F.S.); life agents representing industrial or ordinary-combination class insurers, pending examination (s. 626.790, F.S.); and life agents, due to the death of the agent (s. 626.791, F.S.). The length of the temporary license for industrial fire or burglary agents, pending examination and life agents representing industrial or ordinary-combination class insurers, pending examination, is six months; while temporary licenses for general lines agents, due to the death or disability of an agent, and for a life agent, due to in the death of the agent, expire after four months. The Department issues temporary licenses specific to the license of coinsurer transacted. The Department issues approximately fourteen different temporary licenses.

**Section 11.** Creates s. 626.207, F.S., to give the Department the authority to promulgate rules to establish waiting periods for applicants to become eligible for licensure after having had their license denied, suspended, or revoked under ss. 626.611, 626.621, 626.8437, 626.844, 626.935, 626.9917, 634.181, 634.191, 634.320, 634.321, 634.422, 634.423, 642.041, and 642.043, F.S. This section states that the purpose for the waiting periods is to provide time to demonstrate reformation of character and rehabilitation. The Department also would be required to adopt rules establishing specific penalties for violations of those sections. The waiting periods and penalties would be varied by type of conduct and length of time since the conduct occurred and based on the probability that the propensity to commit illegal conduct has been overcome. The length of the waiting period and penalty could be adjusted.

*Current Law:* The Department does not have specific authority to promulgate rules to establish waiting periods or penalties. The Department had begun to promulgate a rule, but stopped when challenged by the Joint Administrative Procedures Committee.

**Section 12.** Amends s. 626.221, F.S., relating to pre-licensing examination requirements, providing additional exemptions to the examination requirement, as follows:

- Customer representatives with the designation of Professional Customer Service Representative and adjusters with the designation of Professional Claims Adjuster from the Professional Career Institute, provided the Department of Insurance (Department) approves the curriculum.
- Agents transferring licenses from other states, if they have completed an examination in their home state substantially equivalent to the examination requirements in this state; have

- a Chartered Property and Casualty Underwriter (CPCU) designation; or have a Certified Life Underwriter (CLU) designation.
- Applicants as nonresident agents if they have successfully completed an examination in their home state substantially equivalent to the examination requirements in this state; were licensed in their home state prior to being required to pass an exam; have a Chartered Property and Casualty Underwriter (CPCU) designation; or have a Certified Life Underwriter (CLU) designation.

*Current Law:* Certain applicants for licensure are exempt from the examination requirements. Resident agent applicants holding certain designations, such as a CPCU (Chartered Property and Casualty Underwriter) or CLU (Certified Life Underwriter), may be exempt from the examination requirements. Applicants for licensure as a nonresident agent are exempt from the examination requirement if their home state extends the same privilege to Florida residents applying for licensure as a nonresident in their state of residence. Since Florida reciprocates with all other states in this regard, applicants for a nonresident license do not have to pass a pre-licensure examination. Examinations are not required for certain limited lines agent licenses, such as personal accident insurance, baggage and motor vehicle excess liability insurance, credit life or disability insurance, credit insurance, credit property insurance, or in-transit and storage personal property insurance. Department authority to enter into reciprocal agreements with other states to waive the examination requirements for nonresident applicants is express for life agents and health agents, but less specific for general lines agents.

Customer services representatives with the "Certified Customer Service Representative" designation from the Florida Association of Insurance Agents, or the "Registered Customer Service Representative" designation from a regionally accredited postsecondary institution are exempt from the examination requirements.

Adjusters with the "Accredited Claims Adjuster" designation from a regionally accredited postsecondary institution are exempt from the examination requirement.

**Section 13.** Amends s. 626.2815, F.S., requiring those subject to the continuing education requirements to complete two hours of courses every two years on the subject of unauthorized entities transacting insurance.

**Section 14.** Creates s. 626.292, F.S., allowing certain individuals, licensed as agents in another state but becoming residents of Florida, to transfer their licenses to Florida rather than have to go through the general process for obtaining a resident agent license. Agents would qualify for a transfer if the agent has become a Florida resident; has been licensed for at least the one year period immediately preceding the date they became a Florida resident; and submits a Florida application within 90 days of becoming a Florida resident and pays the required fees, along with submitting fingerprints and certification from their home state stating that the individual was licensed in good standing during that period.

The individual would not be required to complete pre-licensing education if the education was a prerequisite to licensure in the individual's home state and the requirement is "substantially equivalent" to the pre-licensing education requirement in Florida. The individual also would not be required to take an examination if he or she qualifies for an exemption from the examination requirement.

*Current Law:* Florida law does not allow for the transfer of a license from another state. Agents from other states becoming Florida residents are required to complete the resident agent licensing process.



**Section 15.** Amends s. 626.301, F.S., to specify that licenses issued by the Department would be required to contain “any other information the Department deems necessary,” in addition to that currently required, and lines of authority, along with other information.

*Current Law:* Licenses issued by the Department are required to show the classes of insurance the licensee may transact, the licensee’s identification number, the name of the licensee, and date issued.

**Section 16.** Amends s. 626.321, F.S., deleting the reference to “solicitor” to reflect the repeal of this license type under section 71 of the bill.

**Section 17.** Creates s. 626.536, F.S., requiring agents to report to the Department final dispositions of certain administrative actions taken against them relating to the business of insurance, sale of securities, or activity involving fraud or dishonesty. The Department would be given the authority to adopt rules to implement this requirement.

*Current Law:* Agents are not compelled to report to the Department administrative actions taken against them.

**Section 18.** Amends s. 626.551, F.S., to extend the time period allowed for licensees to notify the Department of a change of address or name from 30 days to 60 days. Failure to notify the Department within that time would result in a fine of up to \$250, with subsequent offenses resulting in fines of \$500 or more, or suspension or revocation of the agent’s license.

*Current Law:* Licensees must notify the Department within 30 days of a name or address change. The Department is not authorized to levy fines or other penalties against licensees failing to comply with this requirement.

**Section 19.** Conforms cross-references in s. 626.727, F.S. to reflect the creation of 626.015.

**Section 20.** Conforms cross-references in s. 626.729, F.S. to reflect the consolidation of temporary licenses under s. 626.175, F.S.

**Section 21.** Amends s. 626.730, F.S., deleting the reference to “solicitor” to reflect the repeal of this license type in section 71 of the bill.

**Section 22.** Creates s. 626.7315, F.S., moving current law relating to the unlicensed transaction of general lines insurance currently under s. 626.041, F.S.

**Section 23.** Amends s. 626.732, F.S., relating to the pre-licensing education requirements of general lines agents with experience as customer representatives or service representatives. Licensed and appointed customer representatives with at least one year of experience in either personal or commercial property or casualty insurance who complete 40 hours of classroom courses covering unauthorized entities transacting insurance, and property, casualty, surety, health and marine insurance would be qualified to sit for the general lines agent examination. Licensed and appointed customer representatives with one year experience in either personal or commercial property or casualty insurance who complete 80 hours of classroom courses covering unauthorized entities transacting insurance, and property casualty, surety, health and marine insurance also would be qualified to sit for the general lines agent examination.

*Current Law:* The educational requirements for general lines agent licensure are set forth in s. 626.732, F.S. General lines agent applicants are required to complete classroom courses in

*insurance; complete a correspondence course in insurance; or complete at least one year in responsible insurance duties as a full-time employee in all lines of property and casualty insurance. General lines agent applicants holding the designation of Chartered Property and Casualty Underwriter (CPCU) are not required to complete the educational requirements for licensure. Department Rule 4-211.170, F.A.C, specifies the course requirements to be completed. General lines agents are required to complete 200 hours of classroom instruction in all lines with the exception of life and annuities. Applicants completing a Department-approved correspondence course also are required to have at least six months of experience as a full-time employee in all lines of property and casualty insurance.*

**Section 24.** Effective July 1, 2002, amends s. 626.738, F.S., to cancel existing solicitor licenses effective 12:01 A.M., October 1, 2001. The Department would be required to notify solicitors of the procedure and fees required to convert to a general lines agent license. Solicitors would be issued a general lines agent license after the Department receives the appropriate written request and any required fees. Solicitors obtaining a general lines agent license would be required to comply with the applicable provisions of the Insurance Code.

*Current Law:* Solicitors are individuals appointed by a general lines agent to solicit applications for insurance as an agent representative. The Department no longer actively issues the solicitor license, but there are thirty solicitors currently licensed by the Department. Since the Department has not issued a new solicitor license since 1990, current licensees would have at least 10 years of experience.

**Section 25.** Amends s. 626.741, F.S., relating to the licensing of nonresident general lines agents and customer representatives. The Department would be expressly authorized to enter into reciprocal agreements with states waiving the examination requirement for nonresident agent license applicants if:

- the nonresident applicant's home state extends a similar privilege to Florida residents seeking licensure as a nonresident agent in the applicant's home state without discrimination;
- the nonresident applicant holds a valid license as a resident agent in his or her home state; and,
- the nonresident applicant satisfies the examination requirement or is exempt from the requirement. Under another section of the bill, applicants would be exempt from the examination requirement if they have completed "substantially equivalent" examination requirements in their home state or hold certain professional designations.

The Department would be required to verify the nonresident applicant's licensing status through the National Association of Insurance Commissioners Producer Database, if available. The bill also would make conforming terminology changes.

*Current Law:* Nonresident general lines agents and customer representative applicants must be licensed in good standing in their home state and pay fees required under s. 624.501, F.S. Applicants for licensure as nonresident agents are exempt from the examination requirement if their home state extends the same privilege to Florida residents applying for licensure as a nonresident in their state of residence. Since Florida reciprocates with all other states in this regard, applicants for a nonresident license do not have to pass a pre-licensure examination.

**Section 26.** Conforms a cross-reference in s. 626.7454, F.S., to reflect the creation of 626.015, F.S.

**Section 27.** Creates s. 626.7455, F.S., moving current law relating to the responsibilities of insurers and managing general agents (s. 626.091, F.S.) to a new section.

**Section 28.** Conforms a cross reference in s. 626.779, F.S., to reflect the creation of 626.015, F.S.

**Section 29.** Creates s. 626.7845, F.S., moving current law relating to the prohibition against unlicensed transaction of life insurance (s. 626.051, F.S.) to a new section.

**Section 30.** Amends s. 626.785, F.S., increasing to \$10,000 (from the current \$7,500) the value of a burial insurance policy that may be sold by a life insurance agent.

**Section 31.** Amends s. 626.7851, F.S., requiring pre-licensing courses for applicants for a life agent license to include instruction on the subject of unauthorized entities transacting insurance.

**Section 32.** Conforms a cross-reference in s. 626.790, F.S., to reflect the consolidation of temporary licenses under s. 626.175, F.S.

**Section 33.** Amends s. 626.792, F.S., relating to the licensure of nonresident life insurance agents to specify that Department authority to enter into reciprocal agreements with other states waiving the examination requirement for nonresident agent license applicants would be tied to other states extending a similar privilege to Florida residents seeking licensure as a nonresident agent in the applicant's home state without discrimination, the examination required of the applicant's home state being "substantially equivalent" to that required in Florida, and the applicant having satisfied the examination requirement or being exempt from the examination requirement. Under another section of the bill, applicants would be exempt from the examination requirement if they have completed "substantially equivalent" examination requirements in their home state or hold certain professional designations.

The Department would be required to verify the nonresident applicant's licensing status through the National Association of Insurance Commissioners Producer Database, if available.

*Current Law: To receive a nonresident life agent license, applicants must be licensed in good standing in their home state and pay fees required under s. 624.501, F.S. Applicants for licensure as nonresident agents are exempt from the examination requirement if their home state extends the same privilege to Florida residents applying for licensure as a nonresident in their state of residence. Since Florida reciprocates with all other states in this regard, applicants for a nonresident license do not have to pass a pre-licensure examination. Florida limits the authority of the nonresident life insurance agent to that in their home state and requires fingerprinting. Nonresident life insurance agents are prohibited from having a place of business in this state and from being an officer, director, stockholder, or partner in any life insurance agency in the state.*

**Section 34.** Creates s. 626.8305, F.S., moving current law relating to the prohibition against unlicensed transaction of health insurance (s. 626.062, F.S.) to a new section.

**Section 35.** Amends s. 626.8311, F.S., requiring pre-licensing courses for applicants for a health agent license to include instruction on the subject of unauthorized entities transacting insurance.

**Section 36.** Amends s. 626.835, F.S., relating to the licensure of nonresident health insurance agents to specify that Department authority to enter into reciprocal agreements with other states waiving the examination requirement for nonresident agent license applicants. This authority would be tied to other states extending a similar privilege to Florida residents seeking licensure as a nonresident agent in the applicant's home state without discrimination, the examination required of

the applicant's home state being "substantially" equivalent to that required in Florida, and the applicant having satisfied the examination requirement being exempt from the examination requirement. Under another section of the bill, applicants would be exempt from the examination requirement if they have completed "substantially equivalent" examination requirements in their home state or hold certain professional designations.

The Department would be required to verify the applicant's licensing status through the National Association of Insurance Commissioners Producer Database, if available.

*Current Law:* To receive a nonresident health agent license, applicants must be licensed in good standing in their home state and pay fees required under s. 624.501, F.S. Applicants for licensure as nonresident agents are exempt from the examination requirement if their home state extends the same privilege to Florida residents applying for licensure as a nonresident in their state of residence. Since Florida reciprocates with all other states in this regard, applicants for a nonresident license do not have to pass a pre-licensure examination. Florida limits the authority of the nonresident health agent to that in their home state and requires fingerprinting. Nonresident health insurance agents are prohibited from having a place of business in this state and from being an officer, director, stockholder, or partner in any health insurance agency in the state.

**Section 37.** Conforms cross-references in s. 626.8411, F.S., reflecting relocation and consolidation of the substance of a stricken section.

**Section 38.** Amends s. 626.852, F.S., to exempt persons adjusting only multiple peril crop or crop hail claims from the Insurance Adjuster Law.

*Current Law:* Insurance adjusters are regulated under Part VI, Chapter 626, F.S. Adjusters are professionally trained to evaluate, investigate and settle insurance claims. Adjusters must be at least 18 years old and a resident of the state, be trustworthy, have a good business reputation, have sufficient training and experience, and have passed a written exam. Those adjusting only multiple peril crop or crop hail claims must be licensed by the Department and must follow the standards set forth by the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

**Section 39.** Conforms cross-references in s. 626.902, F.S., to reflect the creation of 626.015, F.S. Also increases the penalty for an insurance agent that represents or aids an unauthorized insurer in transacting insurance from a 2<sup>nd</sup> degree misdemeanor to a 3<sup>rd</sup> degree felony. The penalty would apply only if the agent "knowingly" represents the unauthorized insurer, and subsequent violations would be a 2<sup>nd</sup> degree felony.

**Section 40.** Conforms cross-references in s. 626.927, F.S., to reflect creation of 626.015, F.S.

**Section 41.** Conforms cross-references in s. 626.992, F.S., to reflect creation of 626.015, F.S.

**Section 42.** Conforms cross-references in s. 629.401, F.S., to reflect creation of 626.015, F.S.

**Section 43.** Conforms cross-references in s. 648.27, F.S., to reflect creation of 626.015, F.S.

**Section 44 - 71.** Amending ss. 624.311(4)(b),(c); 624.523(1)(e),(o); 624.507; 626.0428(1),(3); 626.112(1),(2); 626.141; 626.171(5); 626.221(1),(3); 626.2815(3)(d); 626.321(1)(b),(f); 626.451(5),(6); 626.511(1); 626.521 (1); 626.561(1),(3); 626.601(1); 626.611; 626.621; 626.641 (2),(3); 626.651 (1),(2); 626.730(1),(2); 626.745; 626.9541(1)(h),(u); 627.776(2)(b); 631.155; 631.341(1); 634.318; 641.37(3),(4); and 642.041; to delete reference to the term "solicitor", a license type repealed by section 71 of the bill.

**Section 72.** Repeals certain sections transferred to other sections of Chapter 626, F.S., or rendered obsolete under the bill.

**Section 73.** Except as otherwise provided, this bill would take effect October 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Council Substitute is identical to HB 1841 as it passed the Insurance Committee, except that the Council Substitute adds a provision increasing the value of a burial insurance policy that may be sold by a life insurance agent.

VII. SIGNATURES:

COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Stephen T. Hogge

Staff Director:

Stephen T. Hogge

AS REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Leonard Schulte

Council Director:

Matthew M. Carter II